

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

EDITH H. MEAD,

Plaintiff-Appellee,

v

RODGER N. MEAD,

Defendant-Appellant.

---

UNPUBLISHED

February 5, 2004

No. 240872

Genesee Circuit Court

LC No. 90-165638-DM

Before: Fitzgerald, P.J., and Neff and White, JJ.

PER CURIAM.

Defendant appeals by leave granted a circuit court order modifying a qualified domestic relations order (QDRO). We affirm, but remand for clarification of the order.

The court entered a consent judgment of divorce in May 1992. The judgment provided in part that the parties would stipulate to the entry of a QDRO “granting Plaintiff Forty-One and 77/100 (41.77%) percent of Defendant’s pension.” The QDRO itself provided that plaintiff was entitled to 41.77 percent of the accrued value of the pension as of May 11, 1992, and that defendant was entitled to the remaining 58.23 percent plus any additional or increased benefits accrued after May 11, 1992. Defendant did not retire until 1999. In March 2002, plaintiff sought to amend the QDRO to give her 41.77 percent of the accrued value of the pension as of the date of defendant’s retirement, plus the same percentage of any cost of living increases. The court ruled that that was what the parties had intended and granted the motion. We affirm this ruling.

The judgment of divorce granted plaintiff 41.77 percent of defendant’s pension. When the judgment was entered, defendant had already accumulated twenty-seven years of service, and would achieve the maximum credit in three years, at thirty years, if he chose to continue to work. The parties had been married for twenty-three years. 41.77 percent was less than one half of 23/27, but more than one-half of 23/30. However, defendant had not yet worked the three years. The judgment of divorce awarded plaintiff 41.77 percent of defendant’s pension without qualification. Apart from reference to the percentage, it did not otherwise limit plaintiff’s interest in the pension.

The QDRO was prepared by defendant himself, who was familiar with the pension program. The QDRO was signed by defendant, his attorney, and the judge. It was not signed by plaintiff or her attorney. Plaintiff’s attorney’s name, address and bar number are typed at the

bottom of the order. The QDRO added provisions limiting plaintiff's share of the pension that were not contained in the judgment of divorce. Under the circumstances, the circuit court did not err in entering an amended QDRO.

Nevertheless, we remand for clarification of the order. As observed in a letter from the pension review team, the amended QDRO is confusing as it refers both to the "monthly accrued benefit under the Plan as of the date of his retirement," and also an "accrued benefit . . . based on the participant's years of service, contributions, 60 month average base hourly, basic benefit code, and basic benefit as of May 11, 1992."

Affirmed, but remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Janet T. Neff  
/s/ Helene N. White